

STATEMENT OF FACTS

Your affiant, Special Agent Eli Bupp, is a Task Force Officer (TFO) assigned to the Joint Terrorism Task Force (JTTF) for the FBI in Harrisburg, PA. In my duties as a special agent, I investigate federal criminal violations related to high technology or cybercrime, child exploitation, child pornography, as well as violations related to the Immigration and Nationality Act, relating to identity and immigration benefit fraud. I have been involved in investigations of marriage fraud, perjury, aggravated identity theft, visa fraud, and conspiracy to commit offense or to defraud the United States. As a special agent, I am authorized to investigate violations of laws of the United States and I am a law enforcement officer with the authority to execute arrest and search and seizure warrants issued under the authority of the United States. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a TFO, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session

of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there. These persons included: (1) a male, wearing a camouflage hat with “TRUMP” in white letters, a blue hoodie and a camouflage backpack, believed to be Brian Korte (“KORTE”); (2) a male with grey/light brown hair and mustache, wearing a dark hoodie with an American flag on the sleeve, and carrying a light brown walking cane, believed to be Lynwood Nester (“NESTER”); and (3) a male, wearing a black Pittsburgh Steelers baseball cap, an American flag scarf, and a black “Free PA” hoodie under a dark vest, believed to be Michael Pomeroy (“POMEROY”).

KORTE, NESTER, and POMEROY are known to reside in Pennsylvania. As described below, your affiant believes that KORTE, NESTER, and POMEROY knew each other through, and are members of, a Pennsylvania based political group called Free PA.¹ On January 6, 2021, KORTE, NESTER, and POMEROY traveled to Washington, D.C. to participate in the “stop the steal” rally. KORTE, NESTER, and POMEROY met up in Washington D.C., along with other members of Free PA.

In the following photograph (“Free PA Photograph”), taken on January 6, 2021, KORTE is circled in red.



¹ On its public website, <https://www.freepa.net/>, Free PA lists its mission as, among other things, organizing physical meetings for like minded patriots to gather, communicate & strategize.

In the Free PA Photograph posted below, NESTER is circled in red.



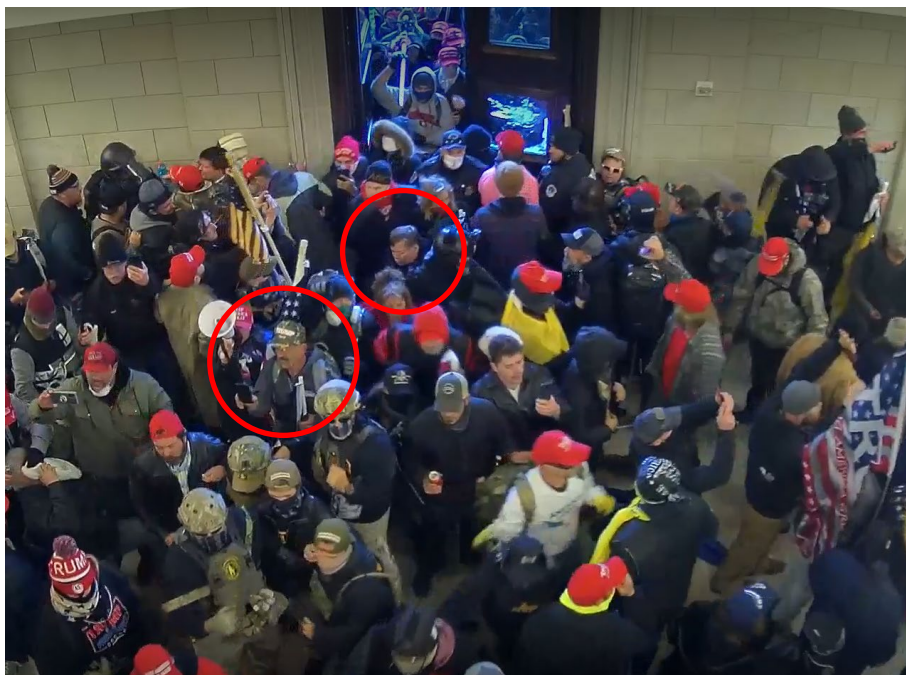
In the Free PA Photograph posted below, POMEROY is circled in red.



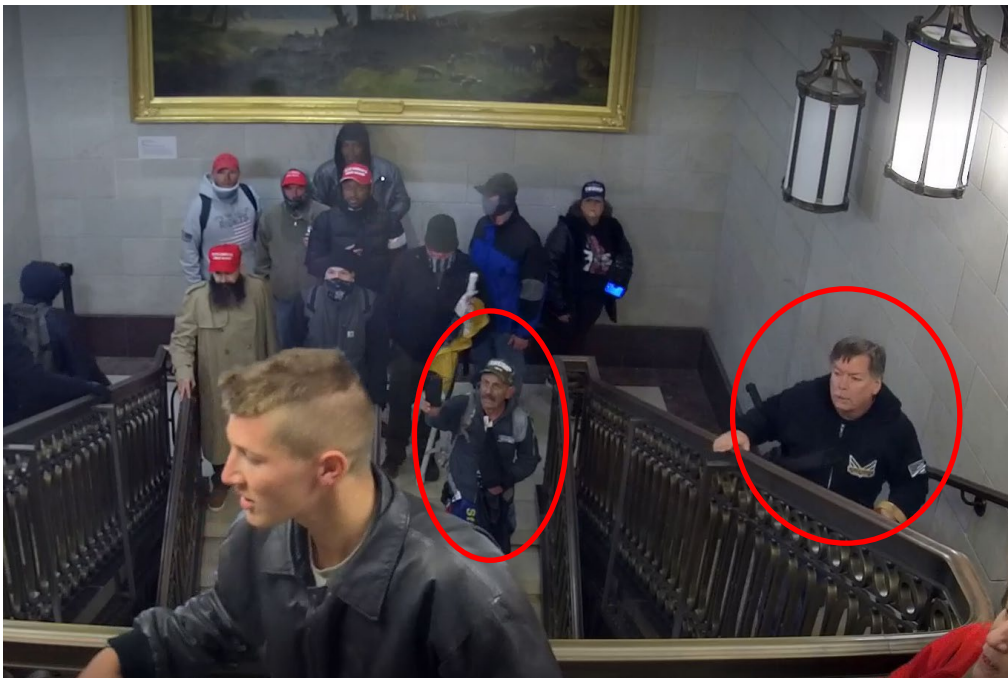
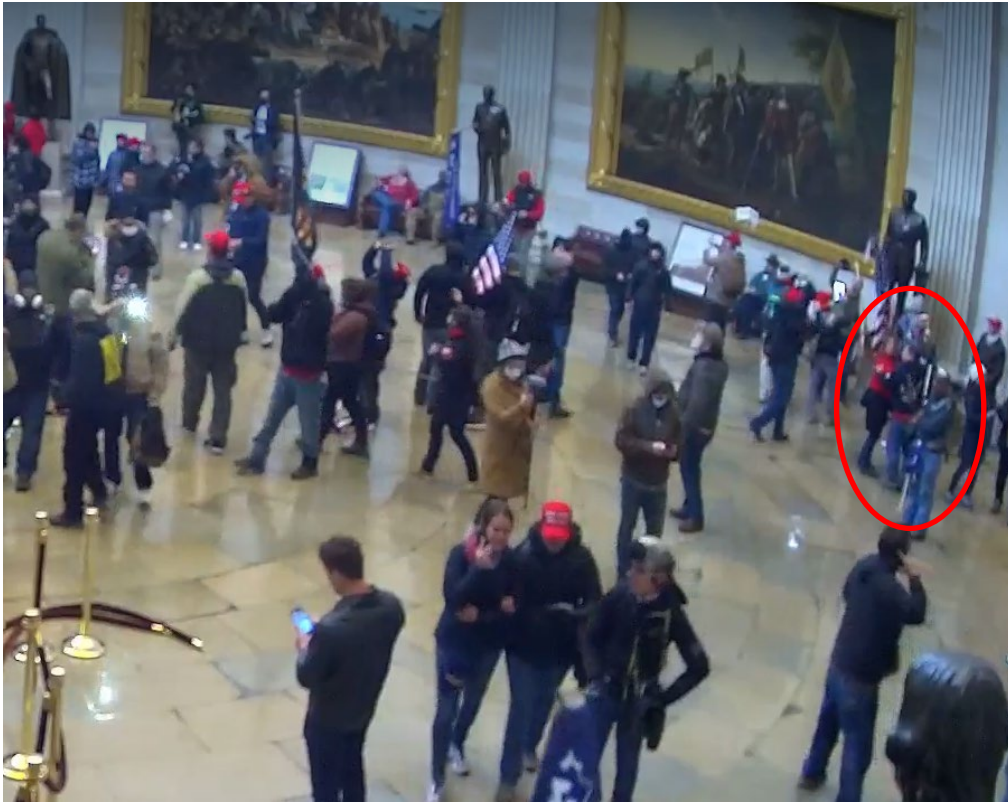
KORTE, NESTER, and POMEROY were also captured with other members of the group Free PA facing the eastern side of the Capitol in the following photograph.



At approximately 2:40 p.m. on January 6, KORTE and NESTER entered the U.S. Capitol building on the second floor on the east side of the building, as depicted in the following still image taken from a recording captured by a closed circuit television (CCV) system at the United States Capitol.



While inside the U.S. Capitol Building, KORTE and NESTER entered the second floor Rotunda, a stairwell to the third floor, and a hallway on the third floor.





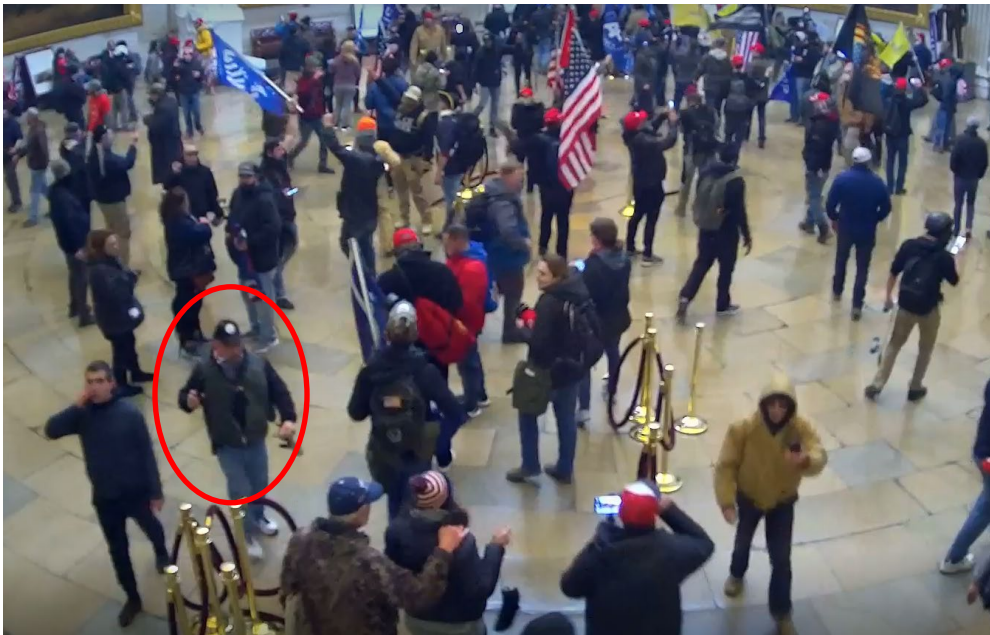
NESTER and KORTE remained in the U.S. Capitol building for approximately ten and a half minutes, exiting at approximately 2:51 p.m. through the same door they entered.



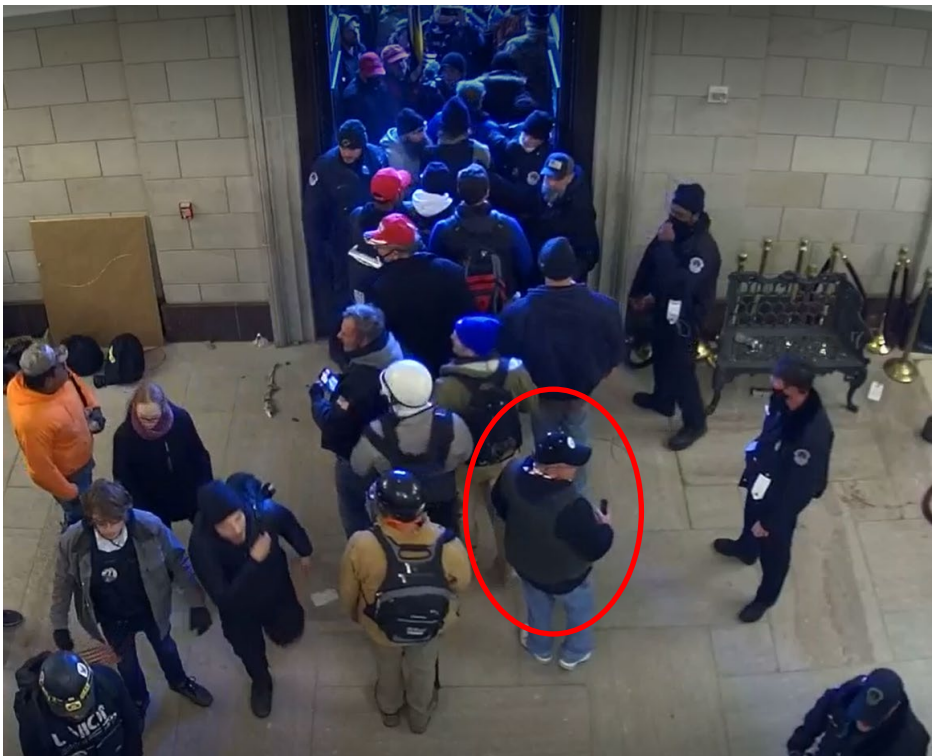
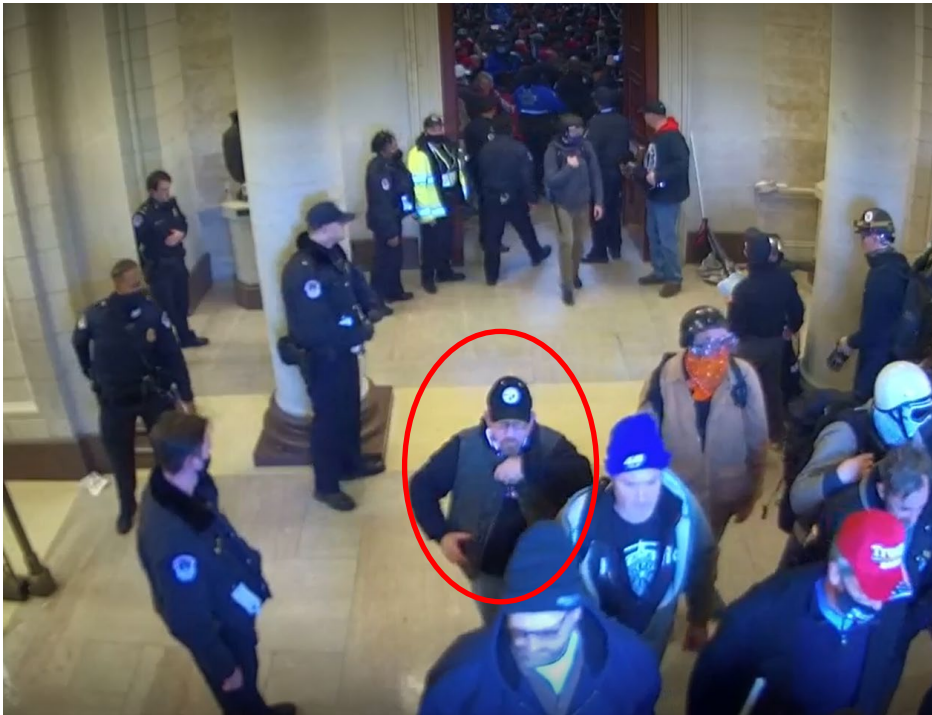
At approximately 2:45 p.m. on January 6, 2021, POMEROY also entered the U.S. Capitol building through the same door on the second floor on the east side of the building.



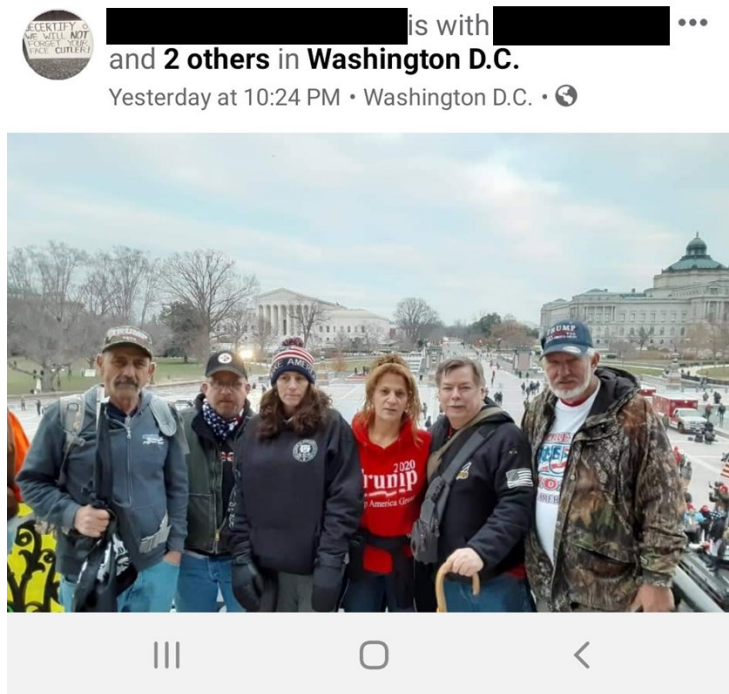
While inside the U.S. Capitol building, POMEROY travelled through the Rotunda.



POMEROY remained in the U.S. Capitol building for approximately twenty minutes, exiting at approximately 3:05 p.m. through the same door he entered.



On 15 May 2021, the FBI executed an arrest of William Blauser for charges stemming from his unlawful entry into the US Capitol on January 6, 2021.² During his custodial interview, Blauser was provided the image below and identified himself as the person on the far right of the image in the blue hat and camouflage jacket. Blauser also identified NESTER as the person second from the right, POMEROY as the person second from the left, and Brian (last name unknown) as the person on the far left. Blauser indicated that everyone in the photo was a member of the group Free PA.



Additional identification of KORTE.

On or about January 11, 2021, the FBI received a tip through the FBI Office of Public Affairs Digital Media Tips website. Witness 1, whose identity is known to the government, provided information from a third party that KORTE was “at the attack on Capitol Hill,” had made it inside the Capitol, and had posted pictures on social media from the Capitol. Additionally, Witness 1 identified KORTE as the owner of [redacted] in York Haven, PA.

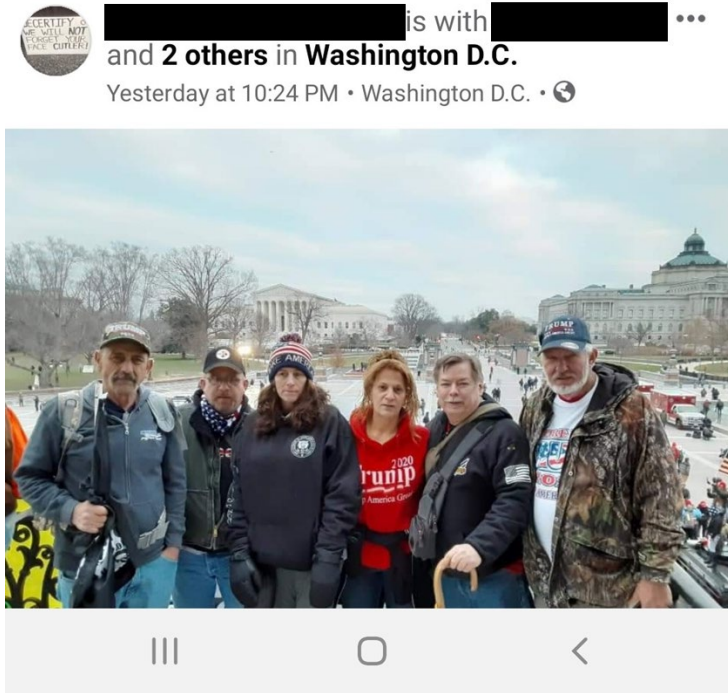
On or about January 11, 2021, the FBI received a second tip through the FBI Office of Public Affairs Digital Media Tips website. Witness 2, whose identity is known to the government, provided the following information:

“On January 6th, Brian Korte of York, PA was present during the storming of the Capitol building. I heard from a family member that he posted a picture of himself inside the Capitol building on his Facebook page, however, I am not able to see it. I did attach two screenshots from

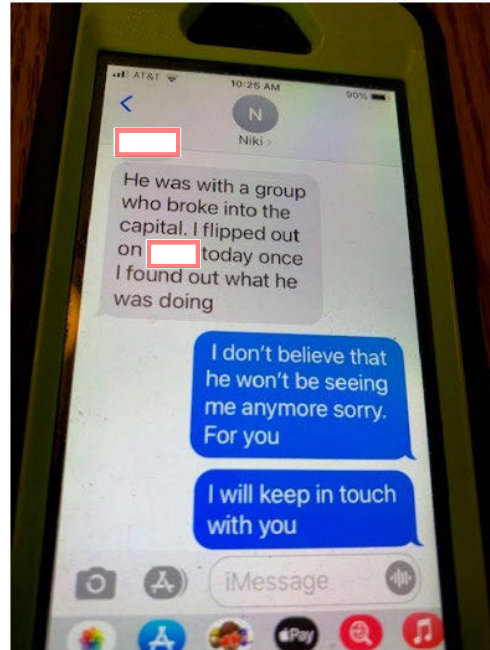
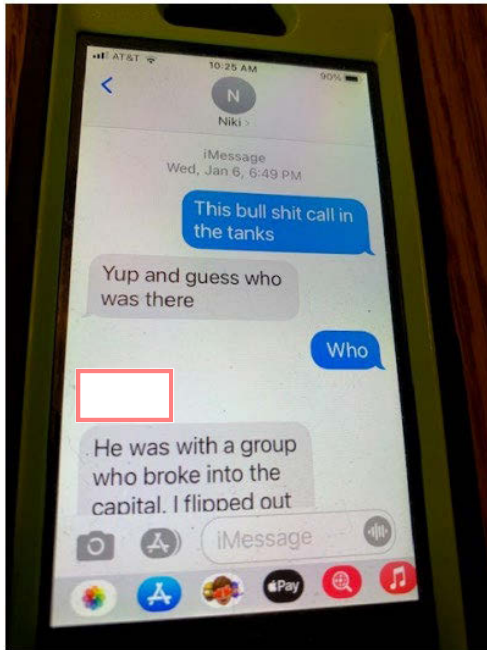
² Blauser pleaded guilty to a violation of 40 U.S.C. § 5104(e)(2)(G) for his participation in the riot and was sentenced on February 3, 2022.

his wife[’s] Facebook page where she states that members of her family were in Washington DC for this.”

On or about June 02, 2021, Witness 3, a family member of Witness 2 who is familiar with KORTE as explained further below, was interviewed. Witness 2 was provided the following photograph and positively identified KORTE as the first individual on the left.



Witness 3 worked with KORTE for several years over the past decade at B&B Plumbing. On or about January 6, 2021, while observing the events taking place at the U.S. Capitol building on the news, Witness 3 exchanged text messages with “Niki,” [redacted] Niki informed Witness 3 that KORTE was in Washington, D.C. that day and that he was part of the group who broke into the Capitol. Witness 3 provided the following text messages with Niki:



On June 16, 2021, the FBI executed a search warrant at KORTE's residence in York Haven, Pennsylvania. During the search, KORTE admitted to being inside the Capitol, and provided the following additional information. KORTE drove his personal vehicle, a red Avalanche, from Pennsylvania to Washington, DC. KORTE did not communicate with anyone while in Washington, DC, but he did run into some people he knew from Pennsylvania. KORTE did not have any expectations that people would break into the U.S. Capitol building and he was not planning to go inside. KORTE returned back to his home in Pennsylvania around 7 or 8 o'clock at night.

Additional identification of NESTER.

On or about January 17, 2021, the FBI received a tip from Witness 4 through the FBI Office of Public Affairs Digital Media Tips website. Witness 4, whose identity is known to the government, provided that he/she had seen NESTER in subsequently deleted videos posted to Facebook. On March 27, 2021, Witness 4 was interviewed by the FBI and shown the Free PA Photograph. Witness 4 positively identified the person second from the right in the Free PA Photograph as NESTER. Witness 4 had met NESTER at a small gathering in Pennsylvania in December 2020, and specifically remembered NESTER due to some concerning comments NESTER made at the event.

CLEAR, a law enforcement database, was checked for possible phone numbers and addresses associated with NESTER. A phone number of [REDACTED] 736 and address of [REDACTED] [REDACTED] Dillsburg, PA 17019 was listed for NESTER. According to records obtained through a search warrant which was served on AT&T, on January 6, 2021, in and around the time of the incident, the cellphone associated with [REDACTED] 736 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol building.

On or about June 9, 2021, FBI Harrisburg received information from Facebook for account number [REDACTED] 849. The name listed on this account is [REDACTED] with an email address of [REDACTED]@yahoo.com. The date of birth listed with this account is [REDACTED]. A phone number listed for this account is [REDACTED] 736.

I have reviewed the driver's license and driver's license photo for Lynnwood NESTER residing in Dillsburg, PA 17019. The date of birth listed on the driver's license is [REDACTED]. I have compared the photo with photos and video taken at the U.S. Capitol on January 6, 2021. Based on my review, I believe that the driver's license photo for Lynnwood NESTER shares similar characteristics with the person identified as NESTER in the Free PA Photograph and images from inside the Capitol provided above.

Additional identification of POMEROY.

CLEAR was also checked for possible phone numbers and addresses associated with POMEROY. A phone number of [REDACTED] 201 and an address of [REDACTED], Harrisburg, PA 17110 was listed for POMEROY. According to records obtained through a search warrant which was served on VERIZON, on January 6, 2021, in and around the time of the incident, the cellphone associated with [REDACTED] 201 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol building.

Additionally, during his custodial interview, Blauser reported that POMEROY is the brother of S.P.W., and stated that S.P.W. is the person third from the right in the Free PA Photograph. On June 28, 2021, S.P.W. was arrested for participating in the January 6th riot.

I have reviewed the driver's license photo for Michael POMEROY residing in Harrisburg, PA 17110. I have compared it with photos and video taken at the U.S. Capitol on January 6, 2021. Based on my review, I believe that the driver's license photo for Michael Pomeroy shares similar characteristics with the person identified as POMEROY in the Free PA Photograph and images from inside the Capitol provided above.

Based on the foregoing, your affiant submits that there is probable cause to believe that BRIAN KORTE, LYNNWOOD NESTER, and MICHAEL POMEROY violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Finally, your affiant submits there is also probable cause to believe that BRIAN KORTE, LYNWOOD NESTER, and MICHAEL POMEROY violated 40 U.S.C. §§ 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

A handwritten signature in dark ink, reading "Eli D. Bupp", is written over a horizontal line. The signature is fluid and cursive.

Eli Bupp
Special Agent
Homeland Security Investigations

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 11th day of May 2022.

HONORABLE ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE